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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/587,439

05/22/2007

Robert J. McMillen

41575-503

4916

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7590

12/14/2009

KANG INTELLECTUAL PROPERTY LAW, LLC
214 ELM STREET, SUITE 106
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EXAMINER

MCPARTLIN, SARAH BURNHAM

ART UNIT

PAPER NUMBER

3636

MAIL DATE

DELIVERY MODE

12/14/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/587,439	Applicant(s) MCMILLEN ET AL.	
	Examiner SARAH B. MCPARTLIN	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-10 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/26/06 & 7/31/08</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Specht (6,331,034). With respect to claim 1, Specht discloses a hollow axle motor assembly characterized by: a drive shaft (15); an electric motor (1) having a hollow axle (17), said hollow axle (17) having an outer diameter (unlabeled) and an inner diameter (unlabeled), said hollow axle adapted to receive said drive shaft (15) within said inner diameter; a first gear (11) operatively connected to said hollow axle (17); a planetary gear assembly (16) in driven communication with said first gear (11); and a drive shaft mount (13) in driven communication with said planetary gear drive assembly (16) and in driving communication with said drive shaft (15), wherein said hollow axle (17) rotates said first gear (11), said first gear (11) engages said planetary gear drive assembly (16), said planetary gear drive assembly rotates said drive shaft mount (13) and said drive shaft mount (13) rotates said drive shaft (15) within said hollow axle (17).

With respect to claim 2, said hollow axle (17) has a first end portion and a second end portion, said first gear (11) connected to said first end portion.

With respect to claim 3, a planetary drive cover (3) is connected to the electric motor (1).

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With respect to claim 4, said drive shaft (15) is connected to at least one driven member (4), in the form of a seat bottom/back pivot mechanism.

With respect to claim 5, said drive shaft (15) has a diameter less than the inner diameter of the hollow axle (17) given that it fits within the hollow axle

With respect to claim 11, Specht discloses a seat (Figure 3) characterized by a seat bottom (8); a seat back (6) hingedly connected to the seat bottom (8) and a hollow axle motor assembly coaxial with said hinge connection, said hollow axle motor assembly including: a shaft (15); an electric motor (1) having a hollow axle (17), said hollow axle (17) having an outer diameter and an inner diameter, said hollow axle adapted to receive said shaft (15) within said inner diameter; a housing (3) connected to said electric motor (1); a first gear (11) operatively connected to said hollow axle (17); a planetary gear drive assembly (16) in driven communication with said first gear (16) and a drive shaft mount (30) in driven communication with said planetary gear drive assembly (16) and in driving communication with said shaft (15) wherein said hollow axle rotates said first gear (11), said first gear engages said planetary gear drive assembly (16) rotates said drive shaft mount (30) and said drive shaft mount (30) rotates said shaft (15) within said hollow axle; and wherein said shaft (15) is rigidly connected to said seat bottom (8), said housing (3) is rigidly connected to said seat back (6), whereby engagement of said electric motor (1) moves said seat back (6) relative to said seat bottom (8).

Allowable Subject Matter

3. Claims 6-10 are allowed.
4. The following is an examiner's statement of reasons for allowance as they pertain to claims 6-10:
 - The prior art made of record fails to suggest either singly or in combination a novel track drive mechanism including first and second tracks, a first locking mechanism engaging the first track, a second locking mechanism engaging the second track and a latch release shaft operatively connected to said first locking mechanism and said second locking mechanism; a hollow axle motor including a track drive shaft with a first gear adapted to engage the first track and a second gear adapted to engage the second track, a cam adapted to engage a latch bar such that upon engagement of the hollow axle motor, said cam rotates said latch bar and in turn said latch release shaft thereby unlocking the first locking mechanism and the second locking mechanism.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Matsushiro (7,073,764); Alhara (5,323,998); Ito (5,702,155); Bathrick (5,542,744) and Fisher, Jr. (6,322,146).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARAH B. MCPARTLIN whose telephone number is (571)272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah B. McPartlin/
Primary Examiner, Art Unit 3636

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8 December 2009